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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

JIM LUKE et al.,

Plaintiffs and Appellants,

v.

CITY OF LOS ANGELES,

Defendant and Respondent.

B290741

(Los Angeles County  
Super. Ct. No. BC675160)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Michael P. Linfield, Judge. Affirmed.

Blum Collins, Craig M. Collins and Hannah Bentley for Plaintiffs and  
Appellants.

Michael N. Feuer, City Attorney, Blithe S. Bock, Assistant City  
Attorney, and Jonathan H. Eisenman, Deputy City Attorney, for Defendant  
and Respondent.

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## INTRODUCTION

Appellants Jim Luke and Golden State Environmental Justice Alliance (the Alliance) brought this action against respondent City of Los Angeles, charging that city ordinance No. 184745 (Build Better ordinance) violated the United States and California Constitutions. They maintain the ordinance unlawfully incentivizes developers to hire local construction workers and thus to discriminate against non-locals.

After the trial court sustained respondent's initial demurrer to their complaint on standing grounds, Luke and the Alliance filed an amended complaint. The amended complaint included new allegations about Luke and a new cause of action for a writ of mandate. The amended complaint also purported to add a new plaintiff, appellant Coalition Against Discrimination Against Outside Workers (the Coalition). The trial court ultimately sustained respondent's demurrer to the amended complaint without leave to amend, concluding Luke and the Alliance still lacked standing, and the cause of action for a writ of mandate was improperly added. The court also granted respondent's motion to strike the Coalition as a party to the amended complaint, determining it, too, was improperly added.

On appeal, appellants claim: (1) they have standing as beneficially interested parties; (2) the cause of action for a writ of mandate was properly added and allowed them to assert public-interest standing; and (3) the Coalition was properly added as a plaintiff. For the following reasons, we disagree and therefore affirm.

## BACKGROUND

### A. *The Build Better Ordinance*

In 2016, Los Angeles voters approved Measure JJJ, the "Build Better LA" initiative. Among other provisions, the resulting ordinance conditions certain benefits relating to development projects on the developers' efforts to employ city residents on the project. For example, the Build Better ordinance requires developers seeking discretionary general plan amendments or zoning changes to make a "good-faith effort" to ensure a certain proportion of

their work is done by “permanent residents of the City of Los Angeles.” (L.A. Mun. Code, § 11.5.6, subd. (B)(2).)

B. *The Original Complaint*

In 2017, Luke, a construction worker residing in Illinois, and the Alliance, a nonprofit corporation, filed this action challenging the Build Better ordinance and seeking injunctive and declaratory relief.<sup>1</sup> They contended the ordinance discriminated against workers who did not reside in the city, in violation of the United States Constitution’s Commerce Clause, Privileges and Immunities Clauses, Equal Protection Clause, and Supremacy Clause, as well as several sections of the California Constitution. In the complaint, Luke alleged he “would like to work in construction in Los Angeles, if he were able to, but the residency preference for Los Angelenos ma[de] this unlikely.” The Alliance alleged: “[it] has advocated for . . . better job-training programs for workers in lower-employment areas . . . , including in the Inland Empire. Among the projects [the Alliance] has funded are the GRID Alternatives project, which trains workers to install solar facilities for low-income homeowners. Those workers want to find employment in construction in Los Angeles if it were available, though they reside in the Inland Empire. [The Alliance] is also looking forward to funding a scholarship for a ‘green construction’ program at a local community college in the Inland Empire. Again, these workers would want to find employment in construction in Los Angeles if it were available to them.”

Respondent demurred to the complaint, arguing Luke and the Alliance lacked standing to challenge the Build Better ordinance. The trial court agreed and sustained the demurrer with leave to amend.

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<sup>1</sup> Luke and the Alliance initially challenged the Build Better ordinance in federal district court. Following the district court’s dismissal of their action for lack of standing under Article III of the United States Constitution, they filed the instant action.

C. *The First Amended Complaint*

Luke and the Alliance filed a first amended complaint (FAC). The FAC included additional allegations about Luke's personal circumstances, including various reasons he wanted to do occasional construction work in Los Angeles and his qualifications to do such work in the city. It further alleged the Build Better ordinance "will impede [Luke's] efforts to find work in Los Angeles." The FAC also purported to add the Coalition as a plaintiff. According to the FAC, the Coalition is an unincorporated association of construction workers residing outside Los Angeles, including both California residents and out-of-state citizens. Members of the Coalition "have worked in construction in Los Angeles previously, and continue to seek work in Los Angeles but . . . have had difficulty finding work because the 'Build Better LA' initiative rewards developers who discriminate against them in hiring because of their residency outside Los Angeles and outside California." Finally, the FAC included a new cause of action for a peremptory writ of mandate precluding enforcement of the ordinance, and asserted appellants had public-interest standing to seek the writ.

Respondent demurred to the FAC, arguing the allegations still failed to establish appellants had standing as beneficially interested parties. It also moved to strike the Coalition as a party to the FAC, contending its addition as a plaintiff was improper because appellants had neither sought nor received leave to do so.

The trial court agreed Luke and the Alliance lacked a beneficial interest in the litigation. The court also agreed with respondent the Coalition was improperly added and therefore granted the motion to strike it as a party to the FAC. The court further stated that regardless of the motion to strike, the Coalition would not have had standing because its allegations were impermissibly vague. Finally, as to the cause of action for a writ of mandate, the court determined it, too, was improperly added without leave. Thus, the trial court sustained respondent's demurrer. Concluding that the FAC was "virtually identical to the original complaint" and that Luke and the Alliance could not amend their complaint to allege standing, the court denied further

leave to amend and subsequently entered a judgment of dismissal. Appellants timely appealed.

## DISCUSSION

On appeal, appellants challenge the trial court's order sustaining respondent's second demurrer, arguing Luke and the Alliance have standing as beneficially interested parties. Alternatively, appellants contend Luke and the Alliance have public-interest standing to seek a writ of mandate, and they claim their cause of action for the writ was properly before the court. Finally, appellants claim the trial court erred in granting respondent's motion to strike the Coalition as a plaintiff, contending the Coalition, too, had standing to challenge the Build Better ordinance.

We review a trial court's order sustaining a demurrer, including underlying determinations of standing, de novo. (See *Hervey v. Mercury Casualty Co.* (2010) 185 Cal.App.4th 954, 960; *Estate of Bowles* (2008) 169 Cal.App.4th 684, 690.) "In reviewing the complaint, 'we must assume the truth of all facts properly pleaded by the plaintiffs, as well as those that are judicially noticeable.' [Citation.] We may affirm on any basis stated in the demurrer, regardless of the ground on which the trial court based its ruling. [Citation.]" (*Krolkowski v. San Diego City Employees' Retirement System* (2018) 24 Cal.App.5th 537, 549.) We review a trial court's ruling on a motion to strike a pleading for abuse of discretion, but legal questions underlying the court's ruling are reviewed de novo. (*Cal-Western Business Services, Inc. v. Corning Capital Group* (2013) 221 Cal.App.4th 304, 309.)

### A. *Luke and the Alliance Have Failed to Establish Standing as Beneficially Interested Parties*

#### 1. *Governing Law*

Appellants argue the FAC's factual allegations were sufficient to afford Luke and the Alliance standing as beneficially interested parties. "Standing is a threshold issue necessary to maintain a cause of action, and the burden to allege and establish standing lies with the plaintiff." (*Mendoza v. JPMorgan Chase Bank, N.A.* (2016) 6 Cal.App.5th 802, 809.) "To have

standing, a party must be beneficially interested in the controversy; that is, he or she must have “some special interest to be served or some particular right to be preserved or protected over and above the interest held in common with the public at large.” [Citation.]” (*Teal v. Superior Court* (2014) 60 Cal.4th 595, 599 (*Teal*), italics omitted; accord, *People ex rel. Becerra v. Superior Court* (2018) 29 Cal.App.5th 486, 495-496.) This beneficial-interest standard “is equivalent to the federal ‘injury in fact’ test, which requires a party to [show] . . . that it has suffered ‘an invasion of a legally protected interest that is “(a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical.”’ [Citation.]”<sup>2</sup> (*Associated Builders & Contractors, Inc. v. San Francisco Airports Com.* (1999) 21 Cal.4th 352, 362 (*Associated Builders*), quoting *Northeastern Fla. Chapter, Associated Gen. Contractors of America v. Jacksonville* (1993) 508 U.S. 656, 663 (*Jacksonville*); see also *Teal*, at p. 599 [party’s interest must be “concrete and actual, and not conjectural or hypothetical”].)

Plaintiffs who wish to challenge an allegedly discriminatory law or government action need not show they were deprived of a tangible benefit to establish standing. “When the government erects a barrier that makes it more difficult for members of one group to obtain a benefit than it is for members of another group, a member of the former group seeking to challenge the barrier need not allege that he would have obtained the benefit but for the barrier in order to establish standing.” (*Cornelius v. Los Angeles County etc. Authority* (1996) 49 Cal.App.4th 1761, 1768 (*Cornelius*), quoting *Jacksonville, supra*, 508 U.S. at p. 666.) In such cases, the injury “is the

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<sup>2</sup> Although *Associated Builders* involved the beneficial-interest requirement applicable to petitions for writs of mandate under Code of Civil Procedure section 1086, the same requirement applies to invocation of the judicial process generally. (Compare *Associated Builders, supra*, 21 Cal.4th at p. 362 with *Schoshinski v. City of Los Angeles* (2017) 9 Cal.App.5th 780, 791 [discussing beneficial-interest requirement in context of ordinary cause of action].)

inability to compete on an equal footing,” rather than “the ultimate inability to obtain the benefit.” (*Ibid.*, quoting *Jacksonville*, at p. 666.)

Even under those circumstances, however, a party cannot establish standing by asserting an abstract or hypothetical interest in the relevant benefit. (See *Teal, supra*, 60 Cal.4th at p. 599 [to establish standing, party must have beneficial interest that is “concrete and actual, and not conjectural or hypothetical”]; cf. *Angelucci v. Century Supper Club* (2007) 41 Cal.4th 160, 175 [discussing standing under Unruh Civil Rights Act; “a plaintiff cannot sue for discrimination in the abstract, but must actually suffer the discriminatory conduct”].) Plaintiffs seeking prospective relief, as appellants do, must show an imminent future injury, i.e. “a very significant possibility of future harm.” (*Coral Construction, Inc. v. City and County of San Francisco* (2004) 116 Cal.App.4th 6, 17 (*Coral*).)

When a plaintiff complains of discriminatory government barriers to benefits, the imminent-injury requirement entails a showing the plaintiff is actively in the market for the benefit and therefore liable to suffer discriminatory treatment in seeking it. For example, in *Cornelius*, a plaintiff claimed the defendant agency’s affirmative-action program unconstitutionally disadvantaged him in bidding on the agency’s projects. (*Cornelius, supra*, 49 Cal.App.4th at pp. 1764, 1767.) To prove standing, the plaintiff submitted a declaration stating he was capable of working on the agency’s projects and “wish[ed] to compete equally for [its] contracts.” (*Id.* at p. 1767.) Concluding the plaintiff lacked standing, this court noted the plaintiff failed to show he either had bid or intended to bid for agency contracts, and explained “the inchoate possibility” the plaintiff might bid in the future was insufficient to establish an imminent injury.<sup>3</sup> (*Id.* at p. 1773.)

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<sup>3</sup> Appellants dismiss *Cornelius* as irrelevant. They note it cited federal caselaw dealing with the “injury in fact” test and point to later California Supreme Court decisions urging caution in importing federal standing concepts. (See, e.g., *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166, fn. 3 [noting court has not adopted federal “zone of interests” rule and stating “[t]here are sound reasons to be cautious in borrowing federal standing concepts”].) But while federal standing law

Conversely, in *Coral*, *supra*, 116 Cal.App.4th at page 24, the court concluded a plaintiff contractor had standing to challenge a city’s affirmative-action ordinance. Similar to the plaintiff in *Cornelius*, the contractor claimed the ordinance disadvantaged it in bidding for city contracts. (*Coral*, at p. 13.) But unlike the plaintiff in *Cornelius*, the contractor had bid on at least one relevant contract in the past and stood “ready, willing and able to bid on future contracts.” (*Id.* at p. 24.) Reversing the trial court’s grant of summary judgment for the city on standing grounds, the Court of Appeal concluded these facts satisfied the standing test set forth in *Cornelius*. (*Coral*, at p. 24.) We turn to assess appellants’ allegations of standing in light of these principles.

## 2. *Application to Luke*

Appellants contend the Build Better ordinance discriminates against noncity residents and makes it harder for them to find work. However, in the FAC, the Illinois-based Luke alleges only that he “would like to work in construction in Los Angeles” but the ordinance “makes this unlikely,” and

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may diverge from our standing doctrine in various ways, our Supreme Court has expressly stated that the federal “injury in fact” test is equivalent to our beneficial-interest standard. (See *Associated Builders*, *supra*, 21 Cal.4th at p. 362.) And the court itself has consulted federal cases dealing with this concept. (See *id.* at pp. 362, 363 [citing *Jacksonville* and *Adarand Constructors, Inc. v. Pena* (1995) 515 U.S. 200].)

In a footnote in their reply brief, appellants also suggest the court disapproved *Cornelius* in *Weatherford v. City of San Rafael* (2017) 2 Cal.5th 1241, 1246 (*Weatherford*). They are mistaken. In *Weatherford*, at page 1446, the parties agreed to a stipulated judgment based on their reading of a separate portion of *Cornelius* as holding that taxpayer standing under Code of Civil Procedure section 526a required payment of a property tax -- an issue the instant case does not involve. Without endorsing the parties’ interpretation of *Cornelius*, our Supreme Court held that payment of a property tax was not required. (*Weatherford*, at pp. 1252-1253.) The court has never disapproved of *Cornelius* on any ground, let alone the ground involved here. We are satisfied it remains pertinent precedent.

that the ordinance “will impede his efforts to find work in Los Angeles.” These allegations are insufficient to show he is actively in the market for relevant work in the city. Similar to the plaintiff’s allegation in *Cornelius* that he “wish[ed] to compete equally for [the defendant agency’s] contracts” (*Cornelius, supra*, 49 Cal.App.4th at p. 1767), Luke’s assertion of interest in construction work in Los Angeles fails to establish either a history of applying for relevant jobs or a concrete intent to do so in the future. Likewise, Luke’s vague contention that the ordinance will “impede his efforts” reflects only an inchoate possibility that Luke will apply for relevant work. (See *id.* at p. 1773.)

In support of their position that Luke’s allegations suffice to grant him standing, appellants cite *Associated Builders, supra*, 21 Cal.4th at pages 362-363 and *Stocks v. City of Irvine* (1981) 114 Cal.App.3d 520 (*Stocks*). Neither case supports their position. In *Associated Builders*, at page 360, our Supreme Court concluded a petitioner trade association had standing to challenge a bid specification for contracts related to an airport expansion project. The association alleged several of its members had refused to bid for the project because they were unwilling to accept the specification’s requirements.<sup>4</sup> (*Id.* at pp. 362-363.) While noting the association’s allegations were “rather scanty,” the court concluded they were sufficient to show the members would be subject to the specification’s allegedly pernicious impact. (*Id.* at p. 363.)

Appellants stress that, similar to Luke, the association’s members in *Associated Builders* had not bid on any contracts before bringing their action. But unlike Luke, who neither applied nor has shown a clear intent to apply for relevant jobs for reasons unknown, the association alleged its members refused to bid *because* of the challenged specification. (*Associated Builders, supra*, 21 Cal.4th at pp. 362-363.) In other words, the members were actively

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<sup>4</sup> The challenged specification required contractors to agree to pay union wages and benefits, use the union hiring hall for any new hires, and abide by certain grievance procedures for discipline or discharge decisions. (*Associated Builders, supra*, 21 Cal.4th at p. 359, fn. 1.)

in the market for the relevant contracts but were deterred by the specification, which did not merely reduce their likelihood of obtaining the contracts but extinguished their interest in them under those circumstances. Luke makes no similar claims.

In *Stocks, supra*, 114 Cal.App.3d at pages 522-523, 537, the court concluded the plaintiffs, persons of low income, had standing to challenge the city of Irvine's allegedly discriminatory zoning laws and regulations. The plaintiffs alleged that they "live[d] in substandard housing outside Irvine because they [were] unable to afford housing in the city," and that Irvine's zoning practices "prevent[ed] them, because of their low income status, from obtaining housing in [the city]." (*Id.* at pp. 524, 525.) They further alleged the city's zoning practices adversely affected the regional housing market, thereby increasing costs where plaintiffs resided. (*Id.* at p. 525.) One of the plaintiffs, for example, alleged "she attempted unsuccessfully to locate [affordable] housing in Irvine," including through "two months of reading newspaper ads and consulting with a rental information service." (*Id.* at p. 525, fn. 1.) Another plaintiff alleged he and his family "were forced to sleep in [their] car because [they] could not locate housing in Irvine or other nearby cities." (*Ibid.*) These allegations, the court concluded, established the plaintiffs' "membership in the class discriminated against" and therefore sufficed to establish standing. (*Id.* at p. 532.) Thus, unlike Luke's abstract assertion he would "like" to work in Los Angeles but the Build Better ordinance made it "unlikely," the *Stocks* plaintiffs showed they had actively and unsuccessfully sought appropriate affordable housing in Irvine and elsewhere.

Because Luke's allegations fail to establish he is actively in the market for construction work in Los Angeles, he cannot show standing to challenge the Build Better ordinance. (See *Cornelius, supra*, 49 Cal.App.4th at p. 1773; *Coral, supra*, 116 Cal.App.4th at pp. 17, 24.) Accordingly, the trial court did not err in concluding Luke lacked standing as a beneficially interested party.<sup>5</sup>

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<sup>5</sup> In a footnote in their reply brief, appellants suggest Luke could amend his complaint to include additional allegations that would establish his

### 3. *Application to the Alliance*

In the FAC, the Alliance alleged it: (1) has “advocated for . . . better job-training programs for workers . . . , including in the Inland Empire”; (2) has funded a training project for workers residing in the Inland Empire, and those workers would “want to find employment in construction in Los Angeles”; and (3) “is also looking forward to funding a scholarship for a ‘green construction’ program” in the Inland Empire, the recipients of which “would want to find employment” in Los Angeles.

Although the Alliance points to the Build Better ordinance’s alleged effect on workers who benefit from its programs, it fails to present any reasoned argument that those third parties’ injuries can grant it standing. (See *United Farmers Agents Assn., Inc. v. Farmers Group, Inc.* (2019) 32 Cal.App.5th 478, 488 [“[A] plaintiff generally must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties”].) Any argument in this respect is therefore forfeited. (See *Sviridov v. City of San Diego* (2017) 14 Cal.App.5th 514, 521 [contentions unsupported by reasoned argument and citation to authority are forfeited].) Moreover, as with Luke, the Alliance’s allegations that those workers “would want” to find construction work in Los Angeles are insufficient to establish an imminent injury to those workers. (See *Cornelius, supra*, 49 Cal.App.4th at p. 1773; *Coral, supra*, 116 Cal.App.4th at pp. 17, 24.)

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standing. However, by failing to raise this new contention in the body of their opening brief, they have forfeited any argument in this regard. (See *Provost v. Regents of University of California* (2011) 201 Cal.App.4th 1289, 1295 [“we will not address arguments raised for the first time in the reply brief”]; *Sabi v. Sterling* (2010) 183 Cal.App.4th 916, 947 [“Footnotes are not the appropriate vehicle for stating contentions on appeal”].) Appellants have therefore failed to show the trial court abused its discretion in denying Luke leave to amend. (*Heritage Pacific Financial, LLC v. Monroy* (2013) 215 Cal.App.4th 972, 994 [plaintiff has burden to prove amendment would cure defect in complaint].)

Citing *Cuenca v. Cohen* (2017) 8 Cal.App.5th 200 (*Cuenca*), appellants argue the Alliance has a personal interest in the litigation. We disagree. In *Cuenca*, a group of petitioners, including the Orange County chapter of Habitat for Humanity, sought to compel the defendant city to designate certain funds for low- and moderate-income housing. (*Id.* at pp. 207-208, 217.) Rejecting the respondents’ argument that Habitat for Humanity lacked standing, the Court of Appeal concluded the organization had public-interest standing.<sup>6</sup> (*Id.* at p. 219.) The court then added: “Moreover, Habitat has a particular interest in [the outcome of the litigation]. The petition stated Habitat ‘creates home ownership and home repair opportunities to . . . low-income families . . . .’ Thus, Habitat stands to further its mission by securing moneys through this action to fund construction of low-income housing . . . . Habitat’s interest in the outcome of this litigation confers it with standing.” (*Ibid.*)

Assuming, without deciding, that *Cuenca* correctly applied governing standing principles, it does not support the Alliance’s assertion of standing.<sup>7</sup> Unlike Habitat for Humanity, the Alliance has alleged no organizational mission the requested relief would further. The Alliance does not allege, and it is far from apparent, that invalidating the Build Better ordinance would further the organization’s projects -- funding of a worker-training program in the Inland Empire and of a “green construction” scholarship in the same region. Thus, the trial court correctly found the Alliance lacked standing as a beneficially interested party.

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<sup>6</sup> We discuss appellants’ contention they have public-interest standing below.

<sup>7</sup> We note *Cuenca* cited no authority for the proposition an organization has standing whenever the outcome of the litigation might further its mission. (See *Cuenca, supra*, 8 Cal.App.5th at p. 219.)

B. *Luke and the Alliance May Not Benefit from Public-Interest Standing*

Appellants assert Luke and the Alliance have public-interest standing to seek a writ of mandate, and claim the trial court erred in ruling the FAC's cause of action for a writ of mandate was improperly added. We need not decide whether appellants properly added this cause of action because, as explained below, they fail to make a sufficient showing to assert public-interest standing.

As with ordinary civil actions, petitioners seeking writs of mandate must generally be “beneficially interested.” (Code Civ. Proc., § 1086.) However, under the public-interest exception to this general requirement, a party seeking a writ of mandate may not need to show a beneficial interest if the petition raises a question of ““public right”” and its object is to ““procure the enforcement of a public duty.”” (*Save the Plastic Bag Coalition v. City of Manhattan Beach*, *supra*, 52 Cal.4th at p. 166.) This exception “promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right.” (*Ibid.*)

“A petitioner is not entitled to [proceed] under the public interest exception as a matter of right.” (*Citizens for Amending Proposition L v. City of Pomona* (2018) 28 Cal.App.5th 1159, 1174.) “[T]he propriety of [the exception] requires a judicial balancing of interests, and the interest of a [public interest petitioner] may be considered sufficient when the public duty is sharp and the public need [for enforcement of the claimed duty] weighty. [Citation.]’ [Citation.]” (*Marshall v. Pasadena Unified School Dist.* (2004) 119 Cal.App.4th 1241, 1252.)

A central consideration in determining if the exception should apply is whether beneficially interested parties may raise the issue on their own behalf or whether denial of the exception would effectively insulate the issue from judicial review. (Compare, e.g., *Board of Social Welfare v. County of Los* (1945) 27 Cal.2d 98, 100 [applying exception where beneficially interested persons were “needy aged person[s]” who “are ordinarily financially, and often physically, unable to maintain such proceedings on their own behalf”];

*Weiss v. City of Los Angeles* (2016) 2 Cal.App.5th 194, 206 [applying exception was appropriate because, “given the burden of mounting a challenge to the [challenged] procedure, it was unlikely [a beneficially interested party] would do so”] with, e.g., *McDonald v. Stockton Met. Transit Dist.* (1973) 36 Cal.App.3d 436, 443 [declining to apply exception where primary beneficiary of asserted right was “quite able to protect its own interest”]; *Department of Consumer Affairs v. Superior Court* (2016) 245 Cal.App.4th 256, 263 [exception inapplicable, in part because case was “not a situation in which an alleged right will go unaddressed and unvindicated if public interest standing is denied”].)

Here, appellants offer no valid reason why a beneficially interested party could not challenge the Build Better ordinance. They argue that given the ordinance, “it is unlikely that a citizen of another state will come to Los Angeles looking for construction work.” This argument is inconsistent with appellants’ own allegations that the Coalition’s members -- both California citizens residing outside Los Angeles and out-of-state citizens -- “have worked in construction in Los Angeles previously, and continue to seek work in Los Angeles.” Appellants suggest it would be difficult for those seeking construction work in Los Angeles to know if the ordinance was the reason they were denied such work. But as explained above, to establish standing, potential plaintiffs need not allege they would have obtained work but for the ordinance. (See *Cornelius, supra*, 49 Cal.App.4th at p. 1768 [plaintiff seeking to challenge discriminatory government barrier to benefits “need not allege that he [or she] would have obtained the benefit but for the barrier”].) As appellants identify no obstacle preventing beneficially interested parties from challenging the ordinance, we conclude they have made an insufficient showing to justify application of the public-interest exception.

### C. *The Coalition was Improperly Added as a Plaintiff*

As noted, the trial court concluded Luke and the Alliance improperly added the Coalition as a plaintiff because they neither sought nor received leave to do so. The court therefore granted respondent’s motion to strike the coalition as a party to the FAC. Appellants challenge this conclusion,

arguing addition of the Coalition did not require the court's express permission.

As a general matter, amendment of a complaint to add a new plaintiff requires the court's leave. (See Code Civ. Proc., § 473; *Demetriades v. Yelp, Inc.* (2014) 228 Cal.App.4th 294, 306.) Even when the court sustains a demurrer with leave to amend, "the plaintiff may amend [the] complaint only as authorized by the court's order." (*Harris v. Wachovia Mortgage, FSB* (2010) 185 Cal.App.4th 1018, 1023.) And unless the order states otherwise, leave under those circumstances is generally limited to amendment of causes of action to which the demurrer was sustained. (*Ibid.*; *People ex rel. Dept. of Public Works v. Clausen* (1967) 248 Cal.App.2d 770, 785.)

Here, appellants did not seek leave to add the Coalition as a plaintiff, and the court's order sustaining the first demurrer with leave to amend did not expressly grant leave to add new plaintiffs. Seeking to avoid the conclusion that adding the Coalition as a plaintiff was impermissible, appellants cite *Patrick v. Alacer Corp.* (2008) 167 Cal.App.4th 995 (*Patrick*). Under *Patrick*, plaintiffs need not obtain the court's express leave to add new causes of action if the addition "directly responds to the court's reason for sustaining the earlier demurrer." (*Id.* at p. 1015.)

While appellants argue the same rule should apply to the addition of new plaintiffs, they fail to cite authority extending the rule in this way. On the contrary, this court and others have held that adding new plaintiffs requires express leave of court, even when it is responsive to defects the trial court identified in sustaining an earlier demurrer. (See, e.g., *Shapell Industries, Inc. v. Superior Court* (2005) 132 Cal.App.4th 1101, 1107 [where trial court sustained demurrer to original plaintiff's claims based on statute of limitations, attempt to substitute plaintiff within limitations period without seeking express leave was "a nullity"]; *Phoenix of Hartford Ins. Companies v. Colony Kitchens* (1976) 57 Cal.App.3d 140, 146-147 [same].) As appellants had obtained no such leave, the trial court did not err in granting respondent's motion to strike the Coalition as a party to the FAC.

**DISPOSITION**

The judgment is affirmed. Respondent is awarded its costs.

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.**

MANELLA, P. J.

We concur:

WILLHITE, J.

CURREY, J.